§2902. Uninsured vehicle coverage; insolvency of insurer

1. A policy insuring against liability arising out of the ownership, maintenance or use of any motor vehicle may not be delivered or issued for delivery in this State with respect to any such vehicle registered or principally garaged in this State, unless coverage is provided in the policy or supplemental to the policy for the protection of persons insured under the policy who are legally entitled to recover damages from owners or operators of uninsured, underinsured or hit-and-run motor vehicles, for bodily injury, sickness or disease, including death, sustained by an insured person resulting from the ownership, maintenance or use of such uninsured, underinsured or hit-and-run motor vehicle. The coverage required by this section may be referred to as "uninsured vehicle coverage." For the purposes of this section, "underinsured motor vehicle" means a motor vehicle for which coverage is provided, but in amounts less than the minimum limits for bodily injury liability insurance provided for under the motorist's financial responsibility laws of this State or less than the limits of the injured party's uninsured vehicle coverage.

[PL 2005, c. 591, §1 (AMD).]

2. With respect to motor vehicle insurance policies subject to the Maine Automobile Insurance Cancellation Control Act and policies in the assigned risk plan established pursuant to section 2325 securing private passenger auto insurance coverage, the amount of coverage to be so provided may not be less than the amount of coverage for liability for bodily injury or death in the policy offered or sold to a purchaser unless the purchaser expressly rejects such an amount, but in any event may not be less than the minimum limits for bodily injury liability insurance provided for under Title 29-A, section 1605, subsection 1.

A rejection of equal coverage by the purchaser under this subsection must be in writing on a form provided by the insurer. The rejection must be signed by the purchaser, dated and include the following language: "I understand that Maine law requires uninsured motor vehicle coverage limits to equal the limits I have selected for liability coverage for bodily injury or death in this policy unless I expressly reject such an amount of coverage. Pursuant to the Maine Revised Statutes, Title 24-A, section 2902, subsection 2, I have elected to purchase uninsured motor vehicle coverage with lesser limits."

For coverage purchased on or after October 1, 2000, the form must be provided to the purchaser prior to the effective date of coverage. For renewal policies in force as of September 30, 2000, the form must be provided upon the first offer of renewal to each purchaser who has current coverage limits less than those required under this subsection. To be effective, a form must be signed by any one named insured under the policy. If a signed form rejecting higher coverage is not received by the insurer prior to the effective date of the policy to which it applies, then the higher coverage must be provided consistent with this subsection from the policy issuance date for coverage purchased on or after October 1, 2000 and from the effective date of the first renewal on or after October 1, 2000 for policies in force as of September 30, 2000.

This subsection may not be construed to prohibit an insured from prospectively changing coverage to alternative limits of uninsured motor vehicle coverage so long as a signed form, if necessary, is submitted to the insurer prior to the effective date of the change. If an insured has maintained the same uninsured vehicle coverage limits for 2 consecutive years with the same insurer, then the insured will be conclusively presumed to have accepted that amount of uninsured coverage in all future policies, until such time as the insured notifies the insurer in writing of an election to change the amount of uninsured coverage.

Reinstatement or renewal of coverage by the insured with the same insurer within 30 days of expiration of a policy must be considered, for purposes of this section, as continuous coverage and does not require a new rejection to be executed by the insured.

With respect to motor vehicle insurance policies not subject to the Maine Automobile Insurance Cancellation Control Act, the amount of coverage so provided may not be less than the minimum limits for bodily injury liability insurance provided for under Title 29-A, section 1605, subsection 1.
[PL 1999, c. 663, §1 (AMD); PL 1999, c. 663, §4 (AFF).]

3. For the purposes of this section, the term "uninsured motor vehicle" shall be deemed also to include, subject to the terms and conditions of such coverage, an insured other motor vehicle where:

A. The liability insurer of such other motor vehicle is unable because of its insolvency to make payment with respect to the legal liability of its insured within the limits specified in its policy; [PL 1969, c. 132, §1 (NEW).]

B. The occurrence out of which such legal liability arose took place while the uninsured vehicle coverage required under subsection 1, was in effect; and [PL 1969, c. 132, §1 (NEW).]

C. Written notice of such occurrence shall have been given to the insurer within 2 years thereof. [PL 1969, c. 132, §1 (NEW).]

Nothing contained in this subsection shall be deemed to prevent any insurer from providing insolvency protection to its insureds under more favorable terms.
[PL 1969, c. 132, §1 (NEW).]

4. In the event of payment to any person under uninsured vehicle coverage, and subject to the terms of such coverage, to the extent of such payment the insurer shall be entitled to the proceeds of any settlement or recovery from any person legally responsible for the bodily injury as to which such payment was made, and to amounts recoverable from the assets of the insolvent insurer of the other motor vehicle.
[PL 1969, c. 132, §1 (NEW).]

5. An insurer or licensed producer holding an appointment from the insurer shall disclose to the purchaser of a motor vehicle liability insurance policy the requirements for uninsured motor vehicle coverage under subsection 2.
[PL 1999, c. 271, §2 (NEW).]

6. When 2 or more persons are legally entitled to recover damages from a particular owner or operator of an underinsured motor vehicle, the amount of underinsured vehicle coverage applicable to each injured person is determined as provided in this subsection.

A. If the underinsured motor vehicle policy applicable to 2 or more persons who are legally entitled to recover damages contains both a per person and a per accident limit, the amount of underinsured vehicle coverage applicable to each injured person is determined by subtracting any payments actually made to that person from any bodily injury liability insurance coverage applicable to the particular owner or operator of the underinsured motor vehicle from that person's, operator's or owner's underinsured vehicle coverage policy limits if applicable to that person. [PL 2013, c. 284, §1 (NEW).]

B. If the underinsured motor vehicle policy applicable to 2 or more persons who are legally entitled to recover damages contains only a single per accident limit, the amount of underinsured vehicle coverage available to each injured person is determined by subtracting any payment received by that person from the owner or operator of the underinsured motor vehicle from that single per accident limit. In no event may the maximum amount payable by the insurer to all injured persons exceed the single per accident limit. [PL 2013, c. 284, §1 (NEW).]

C. The amount of underinsured vehicle coverage determined under paragraph A or B must be further reduced by the amount by which the bodily injury liability insurance coverage applicable to the particular owner or operator of the underinsured motor vehicle exceeds all payments from

that coverage to all persons legally entitled to recover damages from that particular owner or operator of the underinsured motor vehicle. [PL 2013, c. 284, §1 (NEW).]

D. This subsection does not prohibit an insurer from providing greater amounts of underinsured vehicle coverage than are required under this section. [PL 2013, c. 284, §1 (NEW).]

[PL 2013, c. 284, §1 (RPR).]

7. Notwithstanding the requirements of subsection 2 relating to the amount of uninsured motor vehicle coverage required to be maintained under motor vehicle insurance policies subject to the Maine Automobile Insurance Cancellation Control Act and policies in the assigned risk plan established pursuant to section 2325 securing private passenger auto insurance coverage, a policy providing uninsured motor vehicle coverage underwritten on a commercial policy form approved for use in this State must provide coverage in an amount not less than the minimum limits for bodily injury liability insurance provided for under Title 29-A, section 1605, subsection 1. Coverage provided to an insured pursuant to this subsection does not obligate the insured to affirmatively reject an offer of higher limits of uninsured motor vehicle coverage. This subsection may not be construed to limit or compel an insured's election of higher limits of uninsured motor vehicle coverage.

[PL 2001, c. 109, §1 (NEW).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1975, c. 437, §§1, 2 (AMD). PL 1975, c. 676 (AMD). PL 1995, c. 65, Pt. A, §68 (AMD). PL 1995, c. 65, §§A153, C15 (AFF). PL 1999, c. 271, §§1, 2 (AMD). PL 1999, c. 271, §3 (AFF). PL 1999, c. 663, §§1, 2 (AMD). PL 1999, c. 663, §§3, 4 (AFF). PL 2001, c. 109, §1 (AMD). PL 2005, c. 591, §1 (AMD). PL 2013, c. 284, §1 (AMD).

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